BOMBAY ACT No. XXXIX OF 1954.[1]

[THE BOMBAY MERGED TERRITORIES AND AREAS (JAGIRS ABOLITION) ACT, 1953.]

[*18th June 1954.*]

An Act to abolish jagirs in the merged territories and merged areas in the State of Bombay.

WHEREAS it is expedient in the public interest to abolish jagirs of various kinds in the merged territories and merged areas in the State of Bombay and to provide for matters consequential and incidental thereto ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953.

(*2*) It extends to the merged territories and the merged areas in the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "appointed date" means the date on which this Act comes into force ;

Bom. V of 1879.

(*ii*) "Code" means the Bombay Land Revenue Code, 1879 ;

(*iii*) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act;

(*iv*) "to cultivate personally" means to cultivate on one's own account,—

(*a*) by one's own labour, or

(*b*) by the labour of any member of one's family or

(*c*) by servant on wages payable in cash or kind but not in crop share or by hired labour under one's personal supervision or the personal supervision of any member of one's family ;

Explanation.—For the purposes of this clause,—

(*1*) a widow or a minor or a person who is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour ;

(*2*) in the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family ;

(*v*) "Gharkhed land" means land held by a jagirdar as his personal or private property and cultivated personally by him ;

(*vi*) "jagir" means the grant by, or recognition as a grant by, the ruling authority for the time being before the merger, of a village, a group of villages or a portion of a village, whether such grant is of the soil or an assignment of land revenue or both, and includes villages, groups or portions of villages,—

(*a*) held in the merged territories or merged areas on tenure commonly known as Jiwai jagir, Bhomia jagir, Patawat jagir, Jamaiya jagir, Chakariat jagir, Bhagina or Co-shared jagir, Khalsa Jamindari, Mulgiras Jagir, Makta, Saranjam or Political inam or on tenure known by any similar name,

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, p. 380.

(*b*) held by a Ruler of a former Indian State merged in the State of Bombay as jagir in his own State before the merger and recognised after the merger as of his ownership, use and enjoyment as his private property under the merger agreement, or

(*c*) held by a talukdar of a merged taluka or estate and recognised as of his ownership, use and enjoyment under the merger agreement;

(*vii*) "jagirdar" means the holder of a jagir village and includes his co-sharer;

(*viii*) "jagir village" means a village or part of a village held as jagir as defined in clause (*vi*);

(*ix*) "Jiwai jagir" means a village held by the holder thereof for the purposes of his maintenance by virtue of a grant, whether known as Jiwai or by any other name, made by a Ruler of a former Indian State in the merged territories or by a talukdar of a merged taluka or estate in the merged areas;

(*x*) "Life-time Jiwai jagir" means a Jiwai jagir which is recognised by the State Government in this behalf as being continuable for the life-time of the holder;

(*xi*) "Jiwai land" means land held by a cadet of a jagirdar's family for the purposes of maintenance;

(*xii*) "merger" means,—

(*a*) in relation to a former Indian State, the cession by the Ruler of such State, of full and exclusive jurisdiction and powers for, and in relation to, the governance of such State and the transfer of administration of such State to the State of Bombay under section 290A of the Government of India Act, 1935; 26 Geo. 5, Ch. 2.

(*b*) in relation to a taluka or estate in the merged areas, the transfer by the talukdar of all rights, authority and jurisdiction appertaining or in relation to the governance of such taluka or estate to the Government of Bombay and the absorption of such taluka or estate in the State of Bombay under section 290 of the Government of India Act, 1935; 26 Geo. 5, Ch. 2.

(*xiii*) "merged areas" means the areas which are included in the State of Bombay by the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, or the Bombay (Enlargement of Area and Alteration of Boundaries) (Amendment) Order, 1948, as the case may be;

(*xiv*) "merger agreement" means an agreement by virtue of which a former Indian State or a taluka or estate in the merged areas, is merged in the State of Bombay;

(*xv*) "non-proprietary jagir" means a jagir which consists of a right in the jagirdar to appropriate, as incident of the jagir, land revenue or rent due to Government from persons holding land in a jagir village, but which does not consist of any right or interest in the soil;

(*xvi*) "permanent holder" means a person who holds land in a jagir village or who holds jiwai land in such village from a cadet of a jagirdar's family, not on payment of rent but on payment of assessment, in cash or kind, to the jagirdar or to such cadet, as the case may be, and includes any person holding such land through or from such person;

(*xvii*) "prescribed" means prescribed by rules made under this Act;

(*xviii*) "proprietary jagir" means a jagir in respect of which the jagirdar under the terms of a grant or agreement or by custom or usage is entitled to any rights or interest in the soil.

(*2*) Any word or expression which is defined in the Code and not defined in this Act shall be deemed to have the meaning given to it in the Code.

(*3*) References in this Act to the incidents of jagirs shall, notwithstanding the abolition of the jagirs by this Act, be construed as references to the incidents as they were in force immediately before the appointed date.

(*4*) If any question arises,—

(*i*) whether a jagir is proprietary or non-proprietary,

(*ii*) whether any land is Gharkhed or Jiwai, or

(*iii*) whether any person is a permanent holder,

the State Government shall decide the question and such decision shall be final:

Provided that the State Government may authorise any officer to decide questions arising under any of the sub-clauses (*i*), (*ii*) and (*iii*) and subject to an appeal to the State Government, his decision shall be final.

Abolition of jagirs.

3. Notwithstanding anything contained in any usage, grant, sanad, order, agreement or any law for the time being in force, on and from the appointed date,—

(*i*) all jagirs shall be deemed to have been abolished;

(*ii*) save as expressly provided by or under the provisions of this Act, the right of a jagirdar to recover rent or assessment of land or to levy or recover any kind of tax, cess, fee, charge or any hak and the right of reversion or lapse, if any, vested in a jagirdar, and all other rights of a jagirdar or of any person legally subsisting on the said date, in respect of a jagir village as incidents of jagir shall be deemed to have been extinguished.

Liability of jagir villages for payment of land revenue.

4. All jagir villages shall be liable to the payment of land revenue in accordance with the provisions of the Code and the rules made thereunder, and the provisions of the Code and the rules relating to unalienated lands shall apply to such villages:

Provided that nothing in this section shall be deemed to affect,—

(1) any devasthan inam or inams held for religious or charitable institutions, or

(2) inams held for service useful to Government.

What persons to be occupants.

5. (*1*) In a proprietary jagir village,—

(*a*) in the case of Gharkhed land held by the jagirdar, such jagirdar,

(*b*) in the case of land other than Gharkhed land, which is in the actual possession of the jagirdar or in the possession of a person other than a permanent holder holding through or from the jagirdar, such jagirdar,

(*c*) in the case of Jiwai land held by a cadet of the jagirdar's family,—

(*i*) if such land is in the possession of the cadet and cultivated by him personally or is in the possession of a person other than a permanent holder holding through or from the cadet, such cadet, and

(*ii*) if such land is held by a permanent holder, such permanent holder, and

(*d*) in the case of land held by a permanent holder, such permanent holder,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force :

Provided that in the case of land referred to in clause (*b*) or sub-clause (*i*) of clause (*c*), if the land is in the possession of a person holding through or from the jagirdar or cadet, as the case may be, on payment of rent to the jagirdar or cadet, such person shall be entitled to the rights of an occupant in respect of the land in his possession on payment in the prescribed manner to the jagirdar or the cadet, as the case may be, of the occupancy price equivalent to six multiples of the assessment fixed for such land :

Provided further that the right conferred by the above proviso shall not be exercisable after a period of two years from the appointed date.

(*2*) In a non-proprietary jagir village,—

(*a*) in the case of Gharkhed land held by the jagirdar, such jagirdar,

(*b*) in the case of land held by a permanent holder, such permanent holder, and

(*c*) in the case of land in the possession of a person who was liable to pay rent to the jagirdar as an incident of the jagir tenure immediately before the appointed date, such person,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force :

Provided that the person holding land as referred to in clause (*c*) shall be entitled to the right of an occupant in respect of such land on payment to the State Government of the occupancy price equivalent to six multiples of the assessment fixed for such land :

Provided further that if such person fails to pay the occupancy price within the prescribed period, it shall be recoverable as arrears of land revenue.

(*3*) Nothing in this section shall be deemed to apply to a life-time Jiwai jagir.

What persons to be occupants in life-time Jiwai jagir.

6. In a life-time Jiwai jagir village,—

(*a*) in the case of Gharkhed land held by the jagirdar, such jagirdar,

(*b*) in the case of land held by a permanent holder, such permanent holder, and

(*c*) in the case of land in the possession of a person who was liable to pay rent to the jagirdar as an incident of the jagir tenure immediately before the appointed date, such person,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force :

Provided that the person holding land as referred to in clause (*c*) shall be entitled to the right of an occupant in respect of such land on payment to the State Government of the occupancy price equivalent to six multiples of the assessment fixed for such land :

Provided further that if such person fails to pay the occupancy price within the prescribed period, it shall be recoverable as arrears of land revenue.

Rates of assessment.

7. Until revenue surveys and settlements of land revenue of land in a jagir village are made under Chapters VIII and VIII-A of the Code, land revenue payable to the State Government in respect of any land under section 5 or 6 shall be paid at the rate at which the assessment in respect of such land was paid to the jagirdar immediately before the appointed date :

Provided that where in respect of any land no assessment is fixed or the rates of assessment fixed in respect of any land are, in the opinion of the State Government, not in conformity with the standard rates of assessment fixed under Chapter VIII-A of the Code in respect of other areas in the State, it shall be lawful for the State Government to determine or revise, as the case may be, the rate of assessment in respect of such land having regard to such standard rates of assessment and the person liable to pay land revenue under section 5 or 6 shall pay land revenue at the rate so determined or revised.

All public roads, etc., situate in jagir villages to vest in Government.

8. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours, creeks below high water mark, and of rivers, streams, nallas, lakes, wells and tanks, and all canals and water courses, and all standing and flowing water, all unbuilt village site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes) which are situate within the limits of any jagir village, shall, except in so far as any rights of any person other than the jagirdar may be established in or over the same and except as may otherwise be provided by any law for the time being in force, vest in and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of the State Government and all rights held by a jagirdar in such property shall be deemed to have been extinguished and it shall be lawful for the Collector, subject to the general or special orders of the State Government, to dispose them of as he deems fit, subject always to the rights of way and other rights of the public or of individuals legally subsisting.

Explanation.—For the purposes of this section, land shall be deemed to be uncultivated if it has not been cultivated for a continuous period of three years immediately before the appointed date.

Right to trees.

9. The rights to trees specially reserved under the Indian Forest Act, 1927, or any other law for the time being in force, except those the ownership of which has been transferred by the State Government under any contract, grant or law for the time being in force shall vest in the State Government and nothing in this Act shall in any way affect the right of the State Government to apply the provisions of the Indian Forest Act, 1927, as in force in the State of Bombay to forests in a Jagir village.

XVI of 1927.

XVI of 1927.

Right to mines or mineral products.

10. Nothing in this Act or any other law for the time being in force, shall be deemed to affect the rights of any jagirdar subsisting on the appointed date to mines or mineral products in a jagir village granted or recognised under any contract, grant or law for the time being in force or by custom or usage.

Compensation to jagirdar.

11. (*1*) In the case of a non-proprietary jagir, the jagirdar shall be entitled to compensation at the rate of three times the average of the amount of the land revenue received by or due to the jagirdar as an incident of jagir during the five years immediately before the appointed date.

(*2*) In the case of a proprietary jagir, in respect of land held by a permanent holder the jagirdar shall be entitled to compensation equivalent to three multiples of the assessment fixed for such land.

(*3*) Any jagirdar having any right or interest in any property referred to in section 8 shall, if he proves to the satisfaction of the Collector that he had any such right or interest, be entitled to compensation in the following manner, namely :—

(*i*) if the property in question is waste or uncultivated but is cultivable land, the amount of compensation shall not exceed three times the assessment of the land :

Provided that if the land has not been assessed the amount of compensation shall not exceed such amount of assessment as would be leviable in the same village on the same extent of similar land used for the same purpose ;

(*ii*) if the property in question is land over which the public has been enjoying or has acquired a right of way or any individual has any right of easement, the amount of compensation shall not exceed the amount of the annual assessment leviable in the village for uncultivated land in accordance with the rules made under the Code or if such rules do not provide for the levy of such assessment, such amount as in the opinion of the Collector shall be the market value of the right or interest held by the claimant ;

(*iii*) if there are any trees or structures on the land, the amount of compensation shall be the market value of such trees or structures, as the case may be.

Explanation.—For the purposes of this section, the " market value " shall mean the value as estimated in accordance with the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894, in so far as the said provisions may be applicable. I of 1894.

Compensation to life-time Jiwai Jagirdars.

12. In the case of a life-time Jiwai jagir the jagirdar shall, for the abolition of all his rights in such jagir, be entitled to compensation at the rate of ten times the average of the amount of the land revenue received by or due to the jagirdar as an incident of the jagir tenure during the five years immediately before the appointed date and he shall not be entitled to any other compensation payable under this Act.

Method of awarding compensation to jagirdar.

13. (*1*) Any jagirdar entitled to compensation under section 11 or 12 shall, within twelve months from the appointed date, apply in writing to the Collector for determining the amount of compensation payable to him under the said section.

(2) On receipt of an application under sub-section (1), the Collector shall, after making formal enquiry in the manner provided by the Code, make an award determining the amount of compensation. Where there is a co-sharer of a jagirdar claiming compensation, the Collector shall by his award apportion the compensation between the jagirdar and the co-sharer.

Method of awarding compensation for abolition, etc., of rights of other person in property.

14. (1) If any person other than a jagirdar is aggrieved by the provisions of this Act as abolishing, extinguishing or modifying any of his rights to, or interest in, property and if compensation for such abolition, extinguishment or modification has not been provided for in the provisions of this Act, such person may apply to the Collector for compensation.

(2) The application under sub-section (1) shall be made to the Collector in the prescribed form within twelve months from the appointed date. The Collector shall, after holding a formal inquiry in the manner provided by the Code, make an award determining the compensation in the manner and according to the method provided for in sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894.

I of 1894.

Provisions of Land Acquisition Act, 1894, applicable to award.

15. Every award made under section 13 or 14 shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894, and the provisions of the said Act shall, so far as may be, apply to the making of such award.

I of 1894.

Appeal against Collector's award.

16. An appeal shall lie against an award of the Collector to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939, notwithstanding anything contained in the said Act.

Bom. XII of 1939.

Procedure before Revenue Tribunal.

17. (1) The Bombay Revenue Tribunal shall, after giving notice to the appellant and the State Government, decide the appeal and record its decision.

(2) In deciding an appeal under this Act the Bombay Revenue Tribunal shall exercise all the powers which a Court has and shall follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908

Limitation.

18. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of 1908.

Court-fees.

19. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

VII of 1870.

Finality of award and decision of Revenue Tribunal.

20. The award made by the Collector subject to an appeal to the Bombay Revenue Tribunal and the decision of the Bombay Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

Inquiries and proceedings to be judical proceedings.

21. All inquiries and proceedings before the Collector and the Bombay Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Amount of compensation to be payable in transferable bonds.

22. The amount of compensation payable under the provisions of this Act shall be payable in transferable bonds carrying interest at the rate of three per cent. per annum from the date of the issue of such bonds and shall be repayable during a period of twenty years from the date of the issue of such bonds by equated annual instalments of principal and interest. The bonds shall be of such denomination and shall be in such forms as may be prescribed.

Jagirdars to deliver records to authorised officers.

23. (*1*) Whenever an officer authorised by the State Government in this behalf so directs, a jagirdar shall deliver to him or such other officer as may be specified in the direction, the records relating to the jagir village maintained by the jagirdar.

(*2*) If the jagirdar fails without reasonable cause to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees. In the case of a continuing failure to deliver any such records the jagirdar shall be punished with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first such failure.

Provisions of Bom. LXVII of 1948 to govern the relations of landlord and tenants.

24. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any jagir village or the mutual rigths and obligations of a landlord and his tenants save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Bom. LXVII of 1948.

Rules.

25. The State Government may, subject to the condition of previous publication, make rules for the purposes of carrying out the provisions of this Act. Such rules shall when finally made be published in the *Official Gazette*.

Savings.

26. Nothing in this Act shall affect the villages of group of villages the revenues of which are held in Saranjam by the holders of Feudatory Jahagirs in the merged State of Kolhapur.